Wisconsin Department of Revenue
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THE WISCONSIN CORPORATE INCOME AND FRANCHISE TAXES

A. INTRODUCTION

Corporations doing business in Wisconsin are subject to either the corporate income tax or the corporate franchise tax. The corporate income tax is a tax on the net income of corporations doing business in the state. The corporate franchise tax is a tax on the privilege of doing business in the state. Corporate net income is used as the measure, or base, for the franchise tax. The distinction between the two taxes is subtle, relating primarily to the restrictions under federal law on the types of income that states can tax with an income tax (e.g., interest from U.S. obligations).

The vast majority of corporations pay the franchise tax. The income tax applies to corporations whose business in Wisconsin consists entirely of foreign or interstate commerce and to corporations that are filing their final return before dissolution. Because both levies employ the same 7.9% rate and the same general rules for determining corporate net income (although certain types of income cannot be taxed under the income tax), the two taxes are usually considered as one.

Corporate tax collections in FY05 were $764.1 million, or 6.7% of total general purpose revenue (GPR) taxes.

B. COMPUTATION OF NET INCOME

Computation of net income is federalized; that is, based primarily on the Internal Revenue Code (IRC). The starting point for computing Wisconsin net income is federal gross income, subject to certain modifications. Wisconsin applies federal regulations, rules, and court cases interpreting the IRC, when applicable, in determining the proper treatment of an item.

Certain items that are exempt under federal law are taxable in Wisconsin. These items of income must be added back to federal taxable income to arrive at Wisconsin taxable income. These items include: interest income from state and municipal obligations, state taxes accrued or paid, expenses related to nontaxable income, and federal depreciation or amortization in excess of Wisconsin amounts. The amount of Wisconsin credits against income is also added back to income to avoid double counting of the credit amount.

Wisconsin also subtracts from income some items that are taxable at the federal level but exempt under Wisconsin law. These items include dividends that are taxed federally but qualify for the Wisconsin dividends received deduction, certain subpart F income from controlled foreign corporations, certain other federally taxable interest, dividends and capital gains, and the amount of the Wisconsin depreciation deduction that exceeds federal amounts.

C. APPORTIONMENT OF INCOME

Corporations that conduct business in more than one state must apportion their net income among the states with jurisdiction to tax the income. Until 2006, Wisconsin apportioned income with a formula based on three factors—property, payroll, and sales. In the formula, the sales factor was double-weighted (50%) and the property and payroll factors were single-weighted (25% each). For taxable years beginning in 2006, an apportionment formula based solely on the sales factor will be phased in. For taxable year 2006, the apportionment formula will be composed of a sales factor representing 60% of the fraction, a property factor representing 20% of the fraction, and a payroll factor representing 20% of the fraction. For taxable year 2007, the apportionment formula will be composed of a sales factor representing 80% of the fraction, a property factor representing 10% of the fraction, and a payroll factor representing 10% of the fraction. The single sales factor formula will be fully phased in for taxable years beginning in 2008. Special apportionment formulas will continue to apply to certain industries, such as interstate trucking and financial institutions.

The change to a single sales factor will not affect equally all corporations with income apportionable to Wisconsin. Individual companies could have a tax increase or a tax decrease depending on the organization of their business. Included below are examples of a company with a tax increase and a company with a tax decrease. In both examples, the change in tax liability is due to the method of apportioning taxable income to the state.

Hypothetical Company with a Tax Decrease -- A regional manufacturer with a plant and facilities located in Wisconsin could have a tax decrease. In the following example, the manufacturer has 50% of its property, 50% of its payroll, and 30% of its sales in Wisconsin. These apportionment factors would result in 40% of its income taxable to the state under current law that double-weights the sales factor and 30% when single sales factor is fully phased in. The 10% decrease in the apportionment percent applied to $100 million of company income would result in reduced tax liability of $790,000.

EXAMPLE 1: REGIONAL MANUFACTURER

Apportionable Income	$100 million	
	Percent	
Property in WI	50%	
Payroll in WI	50%	
Sales in WI	30%	
	Double Weighted Sales	Single Sales
Apportionable Factor	40.0%	30%
Taxable Income	$40 million	$30 million
Gross Tax Liability	$3,160,000	$2,370,000
Tax Decrease	**($790,000)**	

Hypothetical Company with a Tax Increase -- A national manufacturer with a sales office and staff located in Wisconsin could have a tax increase. In this example, the manufacturer has 0.5% of its property, 0.3% of its payroll, and 2% of its sales in Wisconsin. These apportionment factors would result in 1.2% of its income taxable to the state under current law that double weights the sales factor and 2% when single sales factor is fully phased in. The 0.8% increase in the apportionment percent applied to $500 million of company income would result in $316,000 of additional tax liability.

EXAMPLE 2: MULTI-STATE MANUFACTURER

Apportionable Income	$500 million	
	Percent	
Property in WI	0.5%	
Payroll in WI	0.3%	
Sales in WI	2.0%	
	Double Weighted Sales	Single Sales
Apportionable Factor	1.2%	2.0%
Taxable Income	$6 million	$10 million
Gross Tax Liability	$474,000	$790,000
Tax Increase	**$316,000**	

In calculating the sales factor under the multi-state apportionment formula, taxpayers are required to treat certain "throwback" sales as being the equivalent of Wisconsin sales. Throwback sales are shipments to the federal government or to customers located in states where the seller is not subject to tax because of nexus standards defined by federal law (P.L. 86-272) and further clarified by the Wisconsin Administrative Code. Unlike other Wisconsin sales, however, throwback sales are single-weighted in the sales factor.

Under the nexus standards, a corporation must have some type of presence in a state, generally in the form of property or employees, before its income can be taxed by that state. A corporation cannot be taxed by a state in which it does not have nexus. The purpose of the throwback rule is to ensure that 100% of a multi-jurisdictional corporation's income is apportioned to states with jurisdiction to tax it. (It does not matter if the state actually imposes a corporate income tax.) In the absence of a throwback rule, sales to destinations where the seller does not have nexus would not be included in the numerator of the sales factor of any state. This would result in a company paying tax on less than its entire income.

Like most states, Wisconsin uses special apportionment formulas for certain industries. The following table shows the special industry factors used in the apportionment formula. In each case where multiple factors are listed, the apportionment percentage for the specific industry is the arithmetic average of the factors listed. For some industries that previously had special apportionment formulas with multiple factors, a single factor will be phased in by January 1, 2008.

TABLE 1
SPECIAL INDUSTRY APPORTIONMENT FACTORS

Industry	Factors
Interstate Pipeline Companies	Traffic Units, Payroll, and Property
Interstate Financial Organizations	Phasing in single receipts factor by January 1, 2008
Interstate Telecommunications Companies	Property, payroll, and sales
Insurance Companies	Phasing in single premium factor by January 1, 2008
Interstate Air Carriers	Revenue Tons, Originating Revenues, Arrivals and Departures
Interstate Motor Carriers	Gross Receipts, Ton Miles of Carriage
Interstate Railroads, Sleeping Car Companies, Car Line Companies	Gross Receipts Revenue Ton Miles
Interstate Public Utilities	Phasing in single sales factor by January 1, 2008

D. RECYCLING SURCHARGE

Wisconsin also imposes a recycling surcharge on all non-farm businesses with gross receipts exceeding $4 million at a rate of 3% on gross tax liability of corporations and 0.2% of net business income for non-corporate business entities. The maximum surcharge is $9,800 and the minimum is $25. The surcharge does not apply to entities not required to file an income tax return. Income and franchise tax credits cannot be applied to reduce the amount of the recycling surcharge.

Revenues from the recycling surcharge are deposited in the segregated recycling fund and used to fund local government recycling and solid waste management programs and private business efforts to develop recycled products or markets related to these products.

E. CREDITS

1. Credits in General

A credit is an amount subtracted directly from the taxpayer's Wisconsin gross tax liability (i.e., the amount determined by applying the Wisconsin tax rate to Wisconsin taxable income) to determine Wisconsin net tax liability. Generally, business credits are nonrefundable, that is, they are used only to reduce the amount of tax otherwise due. However, unused credits can be carried over to future tax years (up to 15 years) to be used to offset tax liabilities in those years. There are some credits that are refundable, in that the amount of credit in excess of tax otherwise due is refunded to the taxpayer.

2. Research Credits

To encourage corporations to carry on research and development (R&D) activities in the state, three tax credits are available: a credit for R&D-related non-capital expenditures, a credit for investments in R&D facilities, and an engine research credit.

Research Expenditure Credit. A nonrefundable research expenditure credit for non-capital expenditures related to research activities conducted in Wisconsin is available to corporations. The credit applies only to research expenditures that are undertaken to discover information that is technological in nature and intended to be useful in the development of a new or improved business component. Expenses must be incurred in connection with research conducted in Wisconsin in order to qualify for the credit.

The credit is patterned after the federal research credit and is equal to 5% of the excess of qualified research expenses for the current year over a base period amount. Qualifying expenditures are defined by reference to the rules established under Section 41 of the Internal Revenue Code. The "base period amount" is calculated in the same manner as that for the federal credit, except that the gross receipts used in computing the state credit are from sales attributable to Wisconsin (other than throwback sales) for purposes of apportionment. Qualified research expenses cover in-house expenses for the taxpayer's own research (wages, supplies, and computer use charges) and 65% of amounts paid or incurred for qualified research done by a person other than an employee of the taxpayer. Unused amounts of the credit can be carried forward for up to 15 years.

Research Facilities Credit. A research facilities credit applies to capital investments to construct and equip new research facilities or expand existing facilities located in Wisconsin. The credit is equal to 5% of the amount of qualified investments in tangible, depreciable property that is not replacement property.

The rules relating to the credit are similar to the rules for the research expenditures credit. The credit is nonrefundable and unused amounts of credit may be carried forward and offset against tax liability over the next 15 years. To prevent duplication of tax benefits, businesses must increase their net income by the amount of credit claimed in lieu of reducing their deduction for research expenses or reducing their basis in the property.

Engine Research Credits. For tax years beginning after December 31, 2007, both the research expenditure and research facilities credits are expanded to include a credit equal to 10% of qualified research and 10% of qualified facility expenses related to designing internal combustion engines and related substitutes such as fuel cells and electric and hybrid drives. The credits are also available for research related to designing vehicles powered by such engines and for research on improving production processes for such engines and vehicles.

3. Sales Tax Credit for Fuel and Electricity Used in Manufacturing

For taxable years beginning on or before December 31 2005, an income and franchise tax credit is available for sales tax paid on fuel and electricity used directly in manufacturing operations. Businesses claiming the credit are responsible for determining the portion of total utility costs attributable to manufacturing processes. The allocation is usually based on engineering studies of the power requirements of qualified equipment. The credit is equal to 100% of the sales tax paid. It is not refundable, but unused amounts may be carried forward for up to 15 years to offset income and franchise tax in future years.

Beginning in 2006, the income and franchise tax credit is replaced with a sales tax exemption. Treatment of unused credits from prior years depends upon the amount of unused credit. Businesses with no more than $25,000 of carryforwards may claim up to half of that amount in 2006 and half in 2007. These businesses represent nearly 80% of all businesses with carryforwards, but only 4% of the unused credit.

The credit carryforwards of businesses with more than $25,000 of unused credit are not allowed. However, affected firms may deduct, over two years, the amount that was added back to income when the credits were claimed.

Beginning on January 1, 2008, firms may claim a new nonrefundable credit equal to the total unused manufacturers' sales tax credit carryforwards held before the credit was repealed. The unused credit must be amortized equally over 15 years. Unused credits would be carried forward for 15 years. Companies would be allowed to take the credit beginning in 2008 only if they were certified to have met one of the following criteria:

- Retention of 100% of the full-time (at least 35 hours per week) jobs employed by the company as of December 23, 2003.

- Average annual investment since January 1, 2003, equal to 2% of total book value of the company’s depreciable assets in Wisconsin-based plants/facilities or $5 million.

- Other criteria specific to individual industries as determined by the Department of Commerce, in consultation with the Department of Revenue, through administrative rule.

4. Supplement to the Federal Historic Rehabilitation Credit

A nonrefundable credit is available to encourage the rehabilitation of historic buildings in Wisconsin. The credit applies to rehabilitation projects begun after December 31, 1988, and for rehabilitated property placed in service after June 30, 1989.

This supplement to the federal historic rehabilitation credit can be claimed only for projects that are eligible for the federal credit. The state supplemental credit is equal to 5% of qualified rehabilitation expenditures, as defined under Section 48 (g) of the Internal Revenue Code, to substantially rehabilitate certified historic buildings for use in a trade or business. The credit is patterned after the federal 20% credit for commercial rehabilitation of historic buildings. The rehabilitation work must meet historic preservation standards and the expenditures must exceed the taxpayer's adjusted basis in the building. Unused amounts of the credit can be carried forward for up to 15 years. The credit applies only to property located in Wisconsin.

Taxpayers must reduce their Wisconsin adjusted basis in the building by the amount of the credit claimed. The reduced basis will result in lower depreciation deductions.

5. Development Zone Credit

Wisconsin currently has four programs to encourage economic development in certain areas: the development zone, airport development zone, enterprise zone, and development opportunity zone programs. Under these programs, qualified businesses that locate or expand their operations in certain areas are eligible to claim tax credits. In order to qualify for the credits, a business must first be certified by state and local officials.

The *development zone program* provides credits to taxpayers that locate or expand a trade or business activity within a development zone. The Department of Commerce is authorized to designate up to 22 economically distressed areas as development zones with credits of $38.155 million. To date, 22 zones have been designated as development zones. The zones are in effect for periods of seven to ten years.

A development zone credit is based on the number of full-time jobs created or retained in the state and on amounts spent for environmental remediation in a development zone, development opportunity zone or enterprise zone. Components of the credit are:

- Up to $8,000 for each full-time job created or retained and filled by a member of a target group;

- Up to $6,000 for each full-time job created or retained and filled by a person who is not a member of a target group; and

- Up to 50% of amounts spent for environmental remediation.

For purposes of the jobs credit, a member of a target group includes a resident of an empowerment zone or enterprise community designated by the U.S. government, any person employed in unsubsidized or trial jobs under the Wisconsin Works program, and any person qualifying for the Wisconsin Works health plan or child assistance.

The Department of Commerce was authorized by 2005 Act 487 to designate an area as an *airport development zone* if the following six criteria are met:

1. The airport development project is desired for the area, as evidenced by a resolution of the governing body of each county, city, village, and town in whose territory the airport development zone will be located.

2. The airport development project serves a public purpose.

3. The airport development project will likely retain or increase employment in the state.

4. The airport development project is not likely to occur or continue without the department's designation of the area as an airport development zone.

5. The airport development project will likely positively affect the area.

6. The airport is located in the area designated as an airport development zone, that the airport has at least two runways at the time of the designation, and that the airport's primary runway is at least 5,000 feet in length and its secondary runway is at least 3,000 feet in length.

An airport development zone may not be in an area that is a development zone, a development opportunity zone or an enterprise zone. The designation is effective for 84 months. Total income and franchise tax credits for each zone may not exceed $3 million, and total tax benefits for all zones may not exceed $9 million.

Under the *development opportunity zone program*, corporations, except insurance companies, conducting economic activities in a zone may claim development zone credits allocated to them by the Department of Commerce. Six zones with $29.4 million in tax credits have been authorized. The zones are located in the cities of West Allis, Eau Claire, Kenosha, Milwaukee, and Beloit, which has two zones. Only a zone in Kenosha and one of the Beloit zones remain open. The zones in West Allis, Milwaukee, Eau Claire, and one zone in Beloit have expired.

Corporations locating or expanding their operations within the development opportunity zones are also eligible to claim an investment credit that equals 2.5% of the purchase of depreciable tangible personal property (or 1.75% of the price if the property has been expensed under section 179 of the Internal Revenue Code).

A capital investment credit is available for certain businesses located in the Beloit and Milwaukee development opportunity zones and, beginning in 2006, to businesses in airport development zones equal to 3% of qualified purchases of depreciable tangible personal property and amounts expended to acquire, construct, rehabilitate or remodel qualified real property.

Enterprise development zones are areas in which businesses are permitted to operate and receive tax credits. A business planning to conduct economic activity in a specific area of the state can apply to the Department of Commerce to have the area designated as an enterprise zone. Designation is based on criteria relating to high unemployment and poverty, declining property values, and declining population; and is for a period of seven years. The Department of Commerce is authorized to designate 98 zones; at least 10 zones must be for environmental remediation. Each zone is allocated a maximum of $3 million credits, so that total credits under this program may total as much as $294 million. Based on information from the Department of Commerce, 66 areas have been designated to date as enterprise development zones and certified for $125,259,000 of credits.

6. Enterprise Zone Jobs Credit

For tax years beginning on or after July 1, 2007, a refundable enterprise zone jobs credit against income and franchise taxes for certified businesses located in an enterprise zone is available. The credit has three components: 1) a payroll component based on changes in the claimant's payroll over a base year; 2) a component available only to claimants whose entire property and payroll is in the enterprise zone, which is based on the sum of the claimant's payroll and basis of property; and 3) a component based on the amount a claimant pays for training to upgrade the skills of full-time employees who work in the enterprise zone.

The Department of Commerce is authorized to designate no more than 10 enterprise zones and may not designate an area as an enterprise zone if the area exceeds 50 acres. A designation may be in effect for no more than 12 years. In determining whether to designate an area as an enterprise zone, Commerce must consider indicators of the area’s economic need, infrastructure and energy support, the rate of business development, existing resources available to the area, and the effect of designation on other initiatives and programs to promote economic and community development in the area, such as job training and the creation of high-paying jobs.

Commerce may certify for tax benefits any of the following:

- A business that begins operations in an enterprise zone,
- A business that relocates to an enterprise zone from outside Wisconsin, if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered to its employees working outside the zone, or
- A business that expands operations in an enterprise zone, if the business will increase its personnel by at least 10% or the business makes a capital investment in property located in the enterprise zone equal to at least 10% of the business' gross revenues in the preceding tax year attributable to business activities in Wisconsin.

7. Technology Zone Credit

The Department of Commerce is authorized to designate up to eight areas in the state as technology zones with up to $5 million of tax credits for each zone. Each zone has a maximum duration of ten years. New or expanding high-technology businesses in a zone may be certified by Commerce for tax credits that may be claimed for up to three years, except that a business that experiences growth may claim the credit for up to five years. The amount of the credit is based on the sum of the following taxes paid by the business during the tax year:

- The amount of real and personal property taxes,
- 15% of the first twelve months of wages for jobs created in a technology zone after certification, and
- 10% of certain capital investments made in a technology zone during the tax year.

Certification is based on the number of jobs and the amount of likely capital investment, the economic viability of the business, and its potential to attract related enterprises.

Eight regions, comprising 54 of the state's 72 counties, were designated in June 2002, as technology zones:

- The SuperiorLife zone includes the six counties of Bayfield, Douglas, Iron, Ashland, Washburn, and Burnett.
- The I-94 Corridor zone includes Polk, St. Croix, Pierce, Dunn, Chippewa, and Eau Claire counties.
- The North Central Advantage zone includes Vilas, Oneida, Forest, Lincoln, Langlade, Marathon, Portage, Wood, and Adams counties.

- The NEWREP zone includes Florence, Marinette, Menominee, Oconto, Shawano, Door, Kewaunee, Waupaca, Brown, Outagamie, Waushara, Calumet, Winnebago, Manitowoc, Fond du Lac, and Sheboygan counties.

- The Western Wisconsin zone includes Jackson, Monroe, Trempealeau, La Crosse, Juneau, Vernon, and Crawford counties.

- The Capital Ideas zone includes the counties of Dane, Jefferson, and Rock.

- The Metropolitan Milwaukee zone includes the four counties of Ozaukee, Washington, Waukesha, and Milwaukee.

- The Southeast Tri-County zone is made up of Racine, Walworth, and Kenosha counties.

8. Agricultural Development Zone Credit

The Department of Commerce is authorized to designate one area in the state as an agricultural zone with up to $5 million of tax credits. The zone has a duration of ten years. The agricultural zone program is intended to help attract, promote, retain, and encourage the expansion of agricultural businesses in the state. The program is designed to assist Wisconsin in regaining its prominence in the dairy industry and dairy processing production.

Four regions of the state, made up of 18 counties, were designated in October 2002 as the agricultural development zone:

- The North Central region is comprised of Sawyer, Price, Rusk, Taylor, Clark, and Barron counties.

- The Central Mississippi River region includes Pepin and Buffalo counties.

- The South Central region includes the counties of Green Lake, Marquette, Sauk, Columbia, and Dodge.

- The Southwestern region includes Richland, Grant, Iowa, Lafayette, and Green counties.

9. Dairy and Livestock Farm Investment Credit

A nonrefundable credit is available for 10% of expenses to modernize or expand a dairy or livestock farm. Dairy animals include heifers raised as replacement dairy animals. Livestock includes cattle (not including dairy animals), swine, poultry including farm raised pheasants but not including other farm raised game birds or ratites, fish that are raised in aquaculture facilities, sheep, and goats. The aggregate amount of credit that a taxpayer could claim is $50,000 for expenses to construct, improve, and acquire buildings or facilities and equipment, for dairy animal housing, confinement, feeding, milk production, and waste management. The credit may be claimed for taxable years that begin after December 31, 2003, and before January 1, 2010.

10. Film Production Credits

For tax years beginning after December 31, 2007, several tax credits will be available for expenses related to film production activities for productions accredited by the Department of Commerce. The credits include:

- A film production services income and franchise tax credit. The credit is equal to 25% of salary or wages paid for services rendered in Wisconsin to produce an accredited production and paid to Wisconsin employees. The credit for salary or wages paid must not exceed an amount equal to the first $25,000 of salary or wages paid to each of the claimant's employees, not including the salary or wages paid to the claimant's two highest paid employees. The credit is also equal to 25% of production expenditures paid by the claimant in the taxable year to produce an accredited production.

- A sales and use tax credit for taxes that the claimant paid in the taxable year on the purchase of tangible personal property and taxable services that are used directly in an accredited production.

- A film production company investment credit. A claimant may claim a credit against income and franchise taxes, up to the amount of the taxes, for the first three taxable years that the claimant is doing business in Wisconsin as a film production company, an amount equal to 15% of the purchase price of depreciable, tangible personal property, and the amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

11. Broadband Internet Equipment Exemption and Credit

The sales and use tax exemption and income tax credit created by 2005 Act 479 apply to the purchase of "Internet equipment used in the broadband market." This equipment is defined to be equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobytes per second in either direction. For a purchaser of Internet equipment used in the broadband market to receive the sales and use tax exemption, the purchaser must certify to the Department of Commerce, that the purchaser will, by July 1, 2009, make an investment that is reasonably calculated to increase broadband Internet availability in Wisconsin, and the Department of Commerce must certify the purchaser as eligible for the exemption. The purchases cannot take place before July 1, 2007, which is when the sales and use tax exemption takes effect.

For a purchaser of Internet equipment used in the broadband market to receive the income tax credit, the purchaser must have claimed the sales and use tax exemption described above and be certified by the Department of Commerce as eligible for the tax credit. The total amount of sales and use tax exemptions and income tax credits may not exceed $7.5 million.

12. Early Stage Seed Investment Credit

Effective for taxable years beginning after 2004, an early stage seed investment credit is available for 25% of investments in qualified new business ventures that are certified by the Department of Commerce. To be eligible for credit, a qualified new business venture must meet certain requirements, including that it have its headquarters in the state, have less than 100 employees, at least 51% of whom are employed in the state, and have been in business for not more than seven consecutive years. A qualified new business venture must also be engaged in certain industries: manufacturing, agriculture, processing or assembling products, conducting research and development or developing new products or business processes. The total amount of credits that may be claimed is $3.5 million per taxable year and $35 million for all taxable years.

13. Farmland Tax Relief Credit

A farmland tax relief credit equal to a percentage, established by the Department of Revenue, of property taxes up to $10,000 on farmland, exclusive of improvements, is allowed for owners of farmland. This credit is refundable. The credit percentage is set so that the amount expended for the credit for all claimants, individual and corporate, is $15 million, adjusted for underspending or excess spending in the prior fiscal year.

14. Farmland Preservation Credit

Corporations are eligible for Farmland Preservation Credits and must meet basically the same requirements as individual taxpayers. Income for corporations is defined as the sum of net corporate income, any business loss carryforward allowed under section 71.26 (4), Wis. Stats., and the household income of each corporate shareholder including the income of spouse, dependents, and other members of the household. Corporations must include in their household income farm depreciation in excess of $25,000, all nonfarm depreciation and nonfarm business losses. The credit is refundable.

15. Community Development Finance Credit

A credit is allowed for capital investments in the Wisconsin Community Development Finance Company. Eligibility for the credit is restricted to taxpayers who have made a contribution to the Wisconsin Housing and Economic Development Authority (WHEDA)). The credit is equal to 75% of the cost of common stock or a partnership interest purchased in the Community Development Finance Company. The base for computing the credit is limited to the value of the claimant's contribution to WHEDA.

The credit is nonrefundable and unused amounts of credit can be carried forward and offset against tax liability over the next 15 years. Taxpayers must increase their income by the amount of the credit claimed in lieu of reducing their deduction for the contribution to WHEDA.

16. Credit for Insurance Security Fund Assessments

Chapter 646, Wisconsin Statutes, provides a credit against state taxes, including the corporate income and franchise tax, for certain assessments levied on insurance companies by the Wisconsin Insurance Security Fund. The fund is designed to protect policyholders in cases where their insurance company has failed and is in the process of liquidation. Where the available assets and reserves of failed insurers are inadequate to meet claims, the fund may assess insurance companies doing business in the state, with some exceptions (e.g., fraternal benefit societies). Such assessments are eligible for a 100% tax credit if they cannot be recovered through higher premiums. This can occur if premiums are fixed for a particular line of business. The tax credit is nonrefundable and must be claimed in equal installments over a five-year period, beginning with the year following the one in which the assessment is made.

17. Certified Capital Company (CAPCO) Credit

Under the CAPCO program, insurers that pay a license fee to the Office of the Commissioner of Insurance based on gross premiums, rather than an income tax or franchise tax to the Department of Revenue, may claim a credit against their license fees for investments in CAPCOs. Insurers eligible for the credit are life insurers, out-of-state accident and health insurers, mortgage guarantee insurers, out-of-state fire insurers, out-of-state ocean marine insurers, and out-of-state companies that sell other kinds of property and casualty insurance. The Department of Commerce may certify up to $50 million of investments under this program. Insurers must make their investments in a CAPCO in a lump sum and generally may claim 10% of that amount per year as a credit against its license fees for ten years. CAPCOs must invest at least 30% of the $50 million within three years and 50% within five years in high-technology businesses.

18. Health Insurance Risk-Sharing Plan (HIRSP) Assessments Credit

An income and franchise tax credit and a license fee credit is available for insurers that pay assessments for HIRSP. The amount of the credit for all insurers cannot exceed $5,000,000 per year. The credits apply to taxable years beginning after December 31, 2005, but the credits for the 2006 and 2007 tax years may not be claimed until taxable years beginning after December 31, 2007.

F. PASS-THROUGH ENTITIES

1. Background

Wisconsin provides for differential tax treatment of business income depending on the form of organization under which a business operates. Business income of S-corporations, partnerships and limited liability companies that choose to be treated as partnerships is reported and taxed on the individual income tax returns of the owners (shareholders, partners or members) of the business.

Wisconsin law permits the formation of Subchapter S corporations and limited liability companies. Both of these entities combine the benefits of limited liability offered to corporations, with pass-through of income to the individual owners. Thus, these entities generally pay no tax at the entity level. Instead, income is passed through to the individual shareholders or members, who pay tax on the income at the lower individual income tax rates. (The individual income tax rates range from 4.6% to 6.75%, compared to the 7.9% corporate income tax rate.) This flow-through aspect of income also avoids the double taxation of dividends that occurs when profits are first taxed at the corporate level and then again at the individual level, when profits are distributed as dividends to individual shareholders.

2. Subchapter S Corporations

Wisconsin has federalized its treatment of Subchapter S corporations. Subchapter S, or "tax-option" corporations, elect to have their income exempted from the corporate income tax. The net profit or loss of these companies is instead attributed to stockholders on a prorated basis and taxed under the individual income tax. Typically, "tax-option" corporations are small businesses with fairly simple capital structures. The Internal Revenue Code restricts the number of shareholders to a maximum of 75. It also imposes a number of other limitations, such as the amount of passive investment income that can be earned and the types of stock that can be issued.

Tax liability is determined as of the end of each stockholder's tax year and must be paid regardless of whether or not the corporate income has been distributed. The Subchapter S exemption is actually accomplished through a corporate deduction, which reduces the net taxable income of an electing firm to zero.

The major impact of this action is that capital gains realized by the corporation qualify for the state 60% net capital gain deduction when the gains are passed through to the shareholders.

3. Limited Liability Companies

Like S-corporations, owners (called members) of limited liability companies (LLCs) are taxed on the flow-through income of the company at lower individual income tax rates rather than at the higher corporate rate.

LLCs allow for greater flexibility than S-corporations in the way they can be structured. For example, while S-corporations allow only individuals to be owners, LLC members can include corporations, partnerships, foreign entities, trusts, and charitable organizations as well as individuals. An LLC can have an unlimited number of members as owners and profits and losses can be more freely allocated among the members.

G. HISTORY OF THE CORPORATE TAX

Wisconsin enacted the corporate income tax in 1911, at the same time the individual income tax was created. Since enactment, the basic features of the corporate tax have remained fairly constant, with two noteworthy changes: a shift from graduated rates to a flat rate in 1981 and federalization of the tax base in 1987.

Chapter 20, Laws of 1981, replaced the series of rates and brackets—ranging from 2.3% on taxable income of less than $1,000 to 7.9% on income exceeding $6,000—with a single flat rate of 7.9%. This step signaled the end of nearly 70 years of reliance on a graduated corporate rate structure (see Table 1). Graduated rates were designed to make the corporate tax progressive in its application. However, the growth in business earnings resulting from the dramatic growth in the size and scope of corporations operating in Wisconsin, along with the effects of economic growth and inflation, essentially eliminated the degree of progressivity in the rate structure, since nearly all corporate profits were taxable at the top 7.9% rate. The 7.9% flat rate has not been changed since 1981, except for a 10% surtax during the 1982 and 1983 tax years.

TABLE 2
HISTORICAL CORPORATE TAX RATES

Taxable Income	1913-1953	1954-1970	1971	1972-80	1981 Through Present
First $1,000	2.0%	2.0%	2.1%	2.3%	Flat Rate of 7.9%
Second $1,000	2.5	2.5	2.7	2.8	
Third $1,000	3.0	3.0	3.2	3.4	
Fourth $1,000	3.5	4.0	4.3	4.5	
Fifth $1,000	4.0	5.0	5.3	5.6	
Sixth $1,000	5.0	6.0	6.4	6.8	
More than $6,000	6.0	7.0	7.4	7.9	

For tax years ending after April 1, 1992, and before April 1, 1999, a temporary recycling surcharge was imposed on regular (C) corporations and tax-option (S) corporations. Until tax year 1998, the surcharge on regular corporations was equal to 5.5% of gross tax liability, and the surcharge on tax-option corporations was equal to 0.4345% of net Wisconsin business income. The rate was cut in half beginning in tax year 1998, to 2.75% of corporate tax liability and 0.2173% of net business income of non-corporate entities. A permanent surcharge was imposed for tax years beginning on or after January 1, 2000. The surcharge rate for regular corporations is 3% of gross tax liability and 0.2% of net income for other business entities.

1987 Wisconsin Act 27 federalized the determination of net taxable income for the state corporate tax. Until then, the amount of income subject to the state corporate tax was, for the most part, determined independently of federal law. The previous state statutes paralleled federal law in many respects regarding the deductions allowed in determining net taxable income. However, in a number of areas, such as depreciation, there were significant differences between state and federal law. This pattern in the state corporate tax was in contrast to the individual income tax, which closely paralleled federal law. Under the federalized state corporate tax in effect since 1987, corporate taxpayers are subject to tax on the Wisconsin apportioned share of their federal net taxable income, with a limited number of adjustments for the relatively few remaining federal/state law differences and the ongoing effects of previous law differences.

Corporate tax collections have declined as a percent of GPR. As shown in Table 3, corporate tax revenues represented more than 10% of GPR in fiscal year 1978 and declined to a low of 5% of GPR in fiscal year 2002. The percentage of GPR represented by corporate tax revenue has increased slightly since then to 6.7% in fiscal year 2005.

TABLE 3
CORPORATE TAX COLLECTIONS

Fiscal Year	Corporate Tax Collections ($000s)	Total GPR Collections ($000s)	Corp. % of GPR	Fiscal Year	Corporate Tax Collections ($000s)	Total GPR Collections ($000s)	Corp. % of GPR
1977-78	$284,980	$2,739,959	10.4%	1991-92	$437,689	$6,339,599	6.9%
1978-79	327,427	2,902,146	11.3%	1992-93	492,015	6,871,018	7.2%
1979-80	311,321	2,979,924	10.4%	1993-94	541,284	7,277,553	7.4%
1980-81	255,663	3,202,872	8.0%	1994-95	631,750	7,778,422	8.1%
1981-82	322,939	3,425,664	9.4%	1995-96	636,010	8,209,483	7.7%
1982-83	339,782	3,769,645	9.0%	1996-97	643,822	8,804,011	7.3%
1983-84	393,481	4,528,972	8.7%	1997-98	627,024	9,528,237	6.6%
1984-85	413,645	4,447,227	9.3%	1998-99	635,203	9,948,408	6.4%
1985-86	407,590	4,775,500	8.5%	1999-00	644,625	10,945,898	5.9%
1986-87	470,689	4,954,946	9.5%	2000-01	537,159	10,063,439	5.3%
1987-88	461,369	5,173,665	8.9%	2001-02	503,008	10,020,183	5.0%
1988-89	448,367	5,536,443	8.1%	2002-03	526,545	10,199,739	5.2%
1989-90	436,562	5,649,481	7.7%	2003-04	650,526	10,739,319	6.1%
1990-91	440,917	$6,072,955	7.3%	2004-05	764,053	$11,396,650	6.7%

Source: Wisconsin Department of Revenue.

H. WISCONSIN C-CORPORATION FILERS BY INDUSTRY AND NET INCOME

The following tables show Wisconsin C-corporation tax collections by industry and by size of business for 2004. Table 4 shows the number of corporations and the amount of tax by two-digit SIC code. Table 5 shows the tax collections by size of the corporation, as measured by the amount of net income of the corporation. This data does not include credits claimed by S-corporation shareholders and non-corporate business entities, because very few S-corporations pay tax at the entity level. Instead, tax liability for S-corporations is passed through and paid by the individual owners of the corporation.

TABLE 4
2004 WISCONSIN C-CORPORATION INCOME AND FRANCHISE TAX LIABILITY BY TWO-DIGIT SIC CODE

			Net Income			Total Corporate Tax Liability		
Industry	SIC Code	# of Corps.	# with Income	Net Income ($000's)	% of Total	# with Liability	Net Tax ($000's)	% of Total
Agriculture, Fisheries & Forestry	**01-09**	**1,990**	**736**	**$49,227**	**0.60%**	**604**	**$2,698**	**0.47%**
Agricultural Production--Crops	01	524	174	11,484	0.14%	166	848	0.15%
Agricultural Production--Livestock	02	934	369	28,859	0.35%	251	1,332	0.23%
Agricultural Services	07	367	140	6,757	0.08%	135	369	0.06%
Forestry	08	109	36	1,468	0.02%	36	110	0.02%
Fishing, Hunting & Trapping	09	43	11	193	0.00%	10	15	0.00%
Miscellaneous	03-06	13	6	466	0.01%	6	24	0.00%
Mining	**10-14**	**143**	**49**	**$20,828**	**0.25%**	**44**	**$663**	**0.12%**
Metal Mining	10	36	6	1,030	0.01%	6	81	0.01%
Coal & Nonmetalic Mineral Mining	11, 12, 14	75	36	19,372	0.23%	31	548	0.10%
Oil & Gas Extraction	13	32	7	426	0.01%	7	34	0.01%
Construction	**15-19**	**4,821**	**1,632**	**$103,577**	**1.25%**	**1,604**	**$7,969**	**1.40%**
General Contractors & Builders	15	1,359	455	37,322	0.45%	452	2,920	0.51%
Heavy Construction	16	323	117	15,601	0.19%	113	1,200	0.21%
Special Trade Contractors & Misc.	17-19	3,139	1,060	50,654	0.61%	1,039	3,849	0.67%
Manufacturing	**20-39**	**5,449**	**2,073**	**$2,334,814**	**28.27%**	**1,853**	**$143,975**	**25.22%**
Food & Tobacco	20 & 21	460	220	475,560	5.76%	192	28,625	5.01%
Textile & Apparel	22 & 23	142	39	7,526	0.09%	38	542	0.09%
Lumber	24	305	113	48,787	0.59%	98	1,792	0.31%
Furniture	25	123	52	31,034	0.38%	44	2,211	0.39%
Paper	26	105	35	60,621	0.73%	30	4,066	0.71%
Printing	27	532	176	166,188	2.01%	168	11,651	2.04%
Chemicals	28	255	104	150,586	1.82%	98	8,894	1.56%
Petroleum	29	32	11	23,857	0.29%	10	1,868	0.33%
Rubber	30	181	85	77,646	0.94%	68	4,732	0.83%
Leather	31	27	9	18,367	0.22%	8	1,447	0.25%
Stone, Clay & Glass	32	139	71	48,758	0.59%	67	2,824	0.49%
Primary Metals	33	118	31	15,188	0.18%	21	388	0.07%
Fabricated Metals	34	850	313	242,645	2.94%	266	14,225	2.49%
Machinery	35	542	189	108,334	1.31%	172	6,599	1.16%
Electric Machinery	36	345	112	94,260	1.14%	105	5,538	0.97%
Transportation Equipment	37	106	47	443,086	5.37%	45	28,933	5.07%
Scientific Instruments	38	129	57	54,583	0.66%	56	3,554	0.62%
Other Manufacturing	39	1,058	409	267,788	3.24%	367	16,086	2.82%
Transportation & Utilities	**40-49**	**2,573**	**922**	**$1,109,097**	**13.43%**	**916**	**$86,996**	**15.24%**
Railroad Transportation	40	14	10	54,645	0.66%	10	4,317	0.76%
Local & Suburban Transit	41	76	26	2,100	0.03%	26	166	0.03%
Motor Freight Transportation	42	1,245	464	74,417	0.90%	459	5,835	1.02%
Water Transportation	44	51	19	835	0.01%	19	66	0.01%
Air Transportation	45	107	18	3,191	0.04%	18	252	0.04%
Other Transportation Services	43, 46, 47	401	147	47,787	0.58%	146	3,775	0.66%
Communications	48	548	191	192,124	2.33%	191	14,815	2.60%
Electric, Gas	49	131	47	733,998	8.89%	47	57,770	10.12%

TABLE 4 (continued)
2004 WISCONSIN C-CORPORATION INCOME AND FRANCHISE TAX LIABILITY
BY TWO-DIGIT SIC CODE

Industry	SIC Code	# of Corps.	Net Income			Total Corporate Tax Liability		
			# with Income	Net Income ($000's)	% of Total	# with Liability	Net Tax ($000's)	% of Total
Wholesale Trade	**50-51**	**3,411**	**1,507**	**$544,475**	**6.59%**	**1,490**	**$42,038**	**7.36%**
Durable Goods	50	2,167	965	314,705	3.81%	953	24,253	4.25%
Nondurable Goods	51	1,244	542	229,770	2.78%	537	17,785	3.12%
Retail Trade	**52-59**	**6,452**	**2,162**	**$546,386**	**6.62%**	**2,152**	**$42,870**	**7.51%**
Building Materials	52	524	243	66,225	0.80%	243	5,229	0.92%
General Merchandise	53	165	47	43,524	0.53%	47	3,438	0.60%
Food	54	482	156	97,872	1.19%	153	7,685	1.35%
Auto Dealers & Service	55	1,000	366	46,935	0.57%	362	3,678	0.64%
Apparel	56	373	97	32,922	0.40%	97	2,601	0.46%
Furniture	57	362	132	9,992	0.12%	132	788	0.14%
Eating & Drinking	58	1,619	444	16,277	0.20%	443	1,286	0.23%
Miscellaneous	59	1,927	677	232,639	2.82%	675	18,165	3.18%
Finance, Insurance & Real Estate	**60-69**	**5,911**	**2,218**	**$2,148,100**	**26.01%**	**2,201**	**$139,625**	**24.46%**
Depository Institutions	60	398	263	577,508	6.99%	263	44,859	7.86%
Nondepository Institutions	61	341	122	72,578	0.88%	122	5,734	1.00%
Security & Commodity Brokers	62	258	70	30,951	0.37%	70	2,445	0.43%
Insurance Companies	63	174	99	1,207,952	14.63%	94	66,601	11.67%
Insurance Agencies	64	1,125	471	41,103	0.50%	469	3,216	0.56%
Real Estate	65	2,288	827	83,806	1.01%	818	6,591	1.15%
Holding Companies & Misc.	66-69	1,327	366	134,202	1.63%	365	10,179	1.78%
Services	**70-89**	**14,859**	**4,774**	**$853,280**	**10.33%**	**4,712**	**$66,028**	**11.57%**
Hotels & Motels	70	318	92	15,579	0.19%	91	1,226	0.21%
Personal Services	72	895	309	15,288	0.19%	305	1,207	0.21%
Business Services	73	3,367	1,159	349,556	4.23%	1,151	27,235	4.77%
Repair Services	75, 76	1,079	337	30,758	0.37%	333	2,394	0.42%
Amusement & Recreation	78, 79	908	281	24,393	0.30%	279	1,927	0.34%
Medical & Health Services	80	3,022	842	140,469	1.70%	831	10,467	1.83%
Legal Services	81	632	204	7,275	0.09%	200	575	0.10%
Educational Services	82	154	60	22,978	0.28%	59	1,813	0.32%
Social Services	83	206	81	3,225	0.04%	79	255	0.04%
Museums, Galleries & Gardens	84	24	5	119	0.00%	5	9	0.00%
Membership Organizations	86	398	119	1,278	0.02%	116	101	0.02%
Engineering, Accounting & Management	87	1,165	369	133,606	1.62%	360	10,444	1.83%
Miscellaneous Services	71, 74, 77, 85, 88, 89	2,691	916	108,756	1.32%	903	8,375	1.47%
Other & Unknown		**6,421**	**2,074**	**548,423**	**6.64%**	**2,026**	**$38,039**	**6.66%**
Total		**52,030**	**18,147**	**8,258,207**	**100.00%**	**17,602**	**570,901**	**100.00%**

Source: Aggregate Statistics compiled by the Department of Revenue.

TABLE 5
2004 WISCONSIN C-CORPORATION INCOME & FRANCHISE TAX LIABILITY
BY NET INCOME CLASS

Net Income Class	Count	With Net Income		With Net Tax	
		Count	Amount	Count	Amount
Exactly Zero	33,883				
$0 to $10,000	7,047	7,047	$21,945,725	6,818	$1,697,467
$10,000 to $25,000	2,906	2,906	48,244,284	2,840	3,695,708
$25,000 to $50,000	2,445	2,445	88,269,107	2,391	6,712,770
$50,000 to $100,000	1,954	1,954	137,895,645	1,885	10,292,826
$100,000 to $250,000	1,577	1,577	244,992,315	1,533	18,209,920
$250,000 to $500,000	726	726	256,925,582	695	18,941,917
$500,000 to $1,000,000	524	524	367,295,511	501	26,613,688
$1,000,000 to $5,000,000	708	708	1,542,348,401	679	111,898,550
$5,000,000 to $10,000,000	129	129	896,663,640	122	62,668,953
$10,000,000 to $100,000,000	124	124	3,172,837,520	114	216,384,207
Over $100,000,000	7	7	1,480,789,072	7	94,404,324
Totals	**52,030**	**18,147**	**$8,258,206,802**	**17,585**	**$571,520,330**

Source: Aggregate Statistics compiled by the Department of Revenue.

I. OTHER STATES

Table 6 shows the tax rates and standard apportionment formulas for all 50 states for tax year 2006. Four states (Nevada, South Dakota, Washington, and Wyoming) have no general corporate income tax. While there is no income tax in Texas, the earned surplus component of the franchise tax is based on a corporation's reportable federal taxable income. Most states use a three-factor apportionment formula with payroll, property, and sales factors. Special industry apportionment formulas, such as those used for financial institutions, insurance companies or utilities, are not included in the table.

Also, in some states the tax rates for special entities, such as S corporations or financial institutions, are different than the rates for other entities. These special rates are not included in the table.

"Double-weight" (or "triple-weight") indicates that the apportionment is based on three factors but the sales factor is double-weighted (or triple-weighted).

TABLE 6 STATES' TAX RATES AND APPORTIONMENT FORMULAS, TAX YEAR 2006		
State	**Apportionment**	**Tax Rates**
Alabama	3-Factor	6.50%
Alaska	3-Factor	1% on $10k, up to 9.4% over $90k
Arizona	Double-Weight or sales factor equal to 60% for 2007, 70% for 2008, and 80% after 2008	6.97%
Arkansas	Double-Weight	1% on $3k to 6.5% over $100k
California	Double-Weight	8.84%
Colorado	3-Factor or 2 factor prop/sales	4.63%
Connecticut	3-Factor if sell or use tangible or real property; Sales for others	7.50%
Delaware	3-Factor	8.70%
Washington, DC	3-Factor	9.98%
Florida	Double-Weight	5.50%
Georgia	Phasing in single-factor sales starting 2008	6%
Hawaii	3-Factor	4.4% on $25k to 6.4% over $100k
Idaho	Double-Weight	7.60%
Illinois	Sales	7.3% Combined Rate
Indiana	Double-Weight; Property and payroll phased out 10% each year through 2011	8.50%
Iowa	Sales	6% on $25k to 12% over $250k
Kansas	3-Factor	4% plus 3.5% surtax on income over $50k
Kentucky	Double-Weight	4% on $50k to 7% over $100k
Louisiana	Sales	4% on $25k to 8% over $200k
Maine	Double-Weight	3.5% on $25k to 8.93% over $250k
Maryland	Double-Weight; Sales for Mfgrs.	7%
Massachusetts	Double Weight	9.50%
Michigan	3-factor with sales weighted 90%	1.90%
Minnesota	3-factor with sales weighted 75%; Phase in sales only by 2013	9.8% plus an additional fee
Mississippi	Sales; Mfgrs. use 3-Factor or Double-Weight	3% on $5k to 5% on $10k
Missouri	3-Factor or Sales	6.25%
Montana	3-Factor	6.75%; 7% if water's edge

TABLE 6 STATES' TAX RATES AND APPORTIONMENT FORMULAS, TAX YEAR 2006		
State	**Apportionment**	**Tax Rates**
Nebraska	Sales	5.58% on $50k to 7.81% over $50k
Nevada	Not Applicable	Not Applicable
New Hampshire	Double Weight	8.50%
New Jersey	Double-Weight	9% or, 7.5% if net income under $100k
New Mexico	3-Factor or option to Double-Weight for Mfgrs.	4.8% on $500k to 7.6% over $1M
New York	60-20-20 (receipts, payroll, property); Phase in sales only by 2008	7.5%; may be required to use alternative calculation
North Carolina	Double-Weight	6.90%
North Dakota	3-Factor	2.6% on $3k to 7% over $30k
Ohio	Triple-Weight	Commercial activity tax of .026% over $1 million being phased in by 2010
Oklahoma	3-Factor, or Double-Weight if meet investment criteria	6%
Oregon	Sales	6.60%
Pennsylvania	Triple-Weight	9.99%
Rhode Island	3-Factor	9%
South Carolina	Sales	5%
South Dakota	Not Applicable	Not Applicable
Tennessee	Double-Weight	6.50%
Texas	Sales	Higher of 4.5% earned surplus or 0.25% of taxable capital
Utah	3-Factor, optional double-weight	5%
Vermont	Double-Weight	7% on $10k to 9.75% over $250k
Virginia	Double-Weight	6%
Washington	Not Applicable	Not Applicable
West Virginia	Double-Weight	9%
Wisconsin	60-20-20 (sales, payroll, property) in 2006; phase in sales only by 2008	7.90%
Wyoming	Not Applicable	Not Applicable

Source: CCH Multi-state Corporate Income Tax Guide